



# MARK R. HONADEL

STATE REPRESENTATIVE • 21<sup>ST</sup> ASSEMBLY DISTRICT

## Assembly Bill 775

Throwing or expelling a bodily substance at a  
public safety worker and providing a penalty

Thank you Chairman Turner and Committee members for giving us the opportunity to testify today in support of Assembly Bill 775.

After speaking with my local police department I was told about a problem with enforcing the current laws on expelling bodily fluids at or towards public safety workers.

Presently persons who throw or expel bodily fluids at a public safety worker are guilty of a Class I felony under s.941.375. There are three circumstances that qualify a person to be charged under this law: (a) a person expels bodily fluids with the intent that it come into contact with the public safety worker; (b) the person expels bodily fluid with intent to cause harm to the public safety worker; and (c) the public safety worker does not consent to having the bodily fluid expelled toward them. Under current law District Attorneys are having difficulty proving intent to cause bodily harm (b) and therefore these charges are being dropped.

To further protect emergency medical technicians, law enforcement, fire fighters and ambulance staff; and to allow district attorneys to enforce present law, AB 775 simply removes section (b) the intent to cause bodily harm.

Milwaukee County DA John Chisholm has previously indicated AB 775 is sound legislation that would make a reasonable modification to the law that is too narrowly defined.

Previously the Wisconsin Teamsters Joint Council No. 39 had sent a letter opposing the bill because AB 775 does not include correctional officers. After talking with the organization we clarified that correctional officers are covered under separate statute, s.946.43(2m). There are no current problems with enforcement of that statute. We are very pleased that the Teamsters have removed their objection and now fully support Assembly Bill 775. I have attached a copy of their letter of support.

Under this bill bodily fluids include: blood, semen, vomit, saliva, urine, feces, or other bodily substances; and public safety worker includes: emergency medical technician, first responder, peace officer, fire fighter, or person operating or staffing an ambulance.

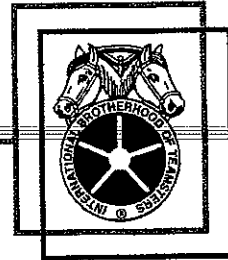
Along with the support of Teamsters Local 39, the Wisconsin Professional Police Association and AFSCME Council 11 have also indicated their support.

*Working For You!*

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# WISCONSIN TEAMSTERS JOINT COUNCIL No. 39

Affiliated with the International Brotherhood of Teamsters



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March 5, 2010

TONY CORNELIUS  
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1546 Main Street  
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To: Assembly Committee on Criminal Justice

WAYNE SCHULTZ  
*Recording Secretary*  
1314 N. Stoughton Road  
Madison, WI 53714

RE: AB 775

GEROLD JACOBS  
*Trustee*  
1624 Yout Street  
Racine, WI 53404

Dear Representative,

THOMAS MILLONZI  
*Trustee*  
6200 W. Bluemound Road  
Milwaukee, WI 53213

Under current law, any person that throws or expels a number of bodily substances at a law enforcement officer, first responder, EMT, firefighter, etc. and intends that the substance come into contact with the public safety worker and intends to cause bodily harm to the public safety worker is guilty of a class 1 felony. This bill will eliminate the element that the person intends to cause bodily harm to the public safety worker.

DAVID REARDON  
*Trustee*  
P.O. Box 86  
Eau Claire, WI 54702

On behalf of Wisconsin Teamsters Joint Council 39, I am advising you of our support for the above referenced bill.

Our original concern was that Correctional Officers should be included in the bill however, it has been clarified that Correctional Officers are already covered under state statute 946.43.

I respectfully request that you support this bill and urge your fellow legislators to do the same.

Sincerely,

Danny L. McGowan  
Legislative Liaison  
Wisconsin Teamsters Joint Council 39/ms

Cc: Representatives, Turner, Hraychuck, Kleefish, Brooks, Kessler, Soletski, Friske, Ripp, Staskunas, Pasch, Kramer, Zepnick, Honadel, Sinicki, Jorgensen, Steinbrink, Kerkman, Montgomery, Townsend, Benedict, Bies, Nerison, Mursau, Nass, LeMahieu, and A. Ott.  
Senators, Plale, Darling, Hansen, Coggs, Schultz, and Hopper

**Police  
Department**

March 17, 2010

CHIEF OF POLICE  
Thomas P. Bauer  
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Representative Mark Honadel  
113 West, State Capitol  
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Sgt. Knitter  
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Dear Mark,

I'm writing in support of the proposed revision to 941.375 (2) (b) relating to throwing or expelling a bodily substance at a public safety worker.

As you know we had recently brought forward our extreme frustration regarding the present form of this statute as it makes it all but impossible to meet the elements of the crime. The Milwaukee County District Attorney's Office has acknowledged that they are hamstrung with the present language as while it is appropriate to show that a person intended to expel a bodily substance, it is very difficult to prove intent of the suspect to cause bodily harm.

My officer's recent experience was very disturbing but also for his entire shift of team mates. During an officers career, there are certain frustrations that officers know may occur and that they must endure. Some of those negative experiences are forever embedded in your memory. This is one of those events.

In any culture, intentionally expelling a bodily substance is acknowledged as the ultimate insult. This type of indecency perpetrated upon those that serve can be effectively addressed by this statute revision. It will bring a sense of fairness and support to the public safety worker that society has established suitable and fair punishment for this vile act.

Thank you for your consideration for those that serve our citizens on the streets of Wisconsin.

Sincerely,



Thomas P. Bauer

Chief of Police  
City Of Oak Creek

March 17th, 2010,

The Honorable Mark Honadel

21st Assembly District

Room 113 West

State Capitol P.O. Box 8952

Madison WI, 53708

Dear Representative Honadel,

My name is Andrew Sagan. I am a police officer in the City of Oak Creek. I am writing to support Assembly Bill 775 and Senate Bill 334. I am very gracious that you are co-sponsoring this joint bill.

In September of 2008 while on duty I was escorting a woman who was arrested for disorderly conduct, battery, and resisting arrest at a public festival in our city. While escorting this woman, she continued to resist officers. While attempting to control her, I was in extremely close proximity to her. During this time she proceeded to spit in my face and continue to yell obscenities. Some of her saliva was aerosolized which I inhaled. When she was in the ambulance, she continued to spit at officers and at fire department personnel.

All police and fire personnel on scene were subject to base line blood draws as the woman was intoxicated and under the influence of narcotics and it was unknown if she had any communicable diseases. We spent the next day wondering if the subject had any communicable disease as we did not know when we went home to our families that night. I can tell you with two children under the age of five and a wife at home this was a very emotional time. I could only hope that she did not have anything that I could contract, and hope I wouldn't have to explain to my wife and children why their husband and father had a potentially life threatening disease.

When this matter was referred to the Milwaukee County District Attorney's office the woman was not charged under the current language in Wisconsin State Statute 941.375(2) as the District Attorney's office stated that they could not prove intent to cause bodily harm.

Fortunately, I was lucky enough that the woman did not have any communicable diseases. If she had, I would have had an even more difficult time explaining to my wife and children that not only did I contract a potentially life threatening disease, but the person that gave it to me had no consequences for doing so.

Sincerely,

Officer Andrew Sagan

Oak Creek Police Department

301 W Ryan Road

Oak Creek, WI 53154

(414) 762-8200



SENATOR JEFF PLALE  
SEVENTH SENATE DISTRICT

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**Testimony of Senator Jeff Plale  
Assembly Bill 775  
Assembly Committee on Criminal Justice  
March 18, 2010**

Thank you, Representative Turner and fellow members of the committee, for your consideration of Assembly Bill 775.

I'm pleased to testify in favor of this bill which makes it easier to pursue legal action against a person who expels a bodily substance at a public safety worker.

Under current Wisconsin law, persons who throw or expel a bodily fluid at a public safety worker are guilty of a Class I felony. There are three existing circumstances that would qualify the offender to be charged under the law: A person must expel bodily fluid with intent that it come into contact with the public safety worker, expel bodily fluid with the intent to cause harm to the public safety worker, and the public safety worker does not consent to having the bodily fluid expelled toward him or her.

It is very difficult to prove the intent to cause bodily harm, and so charges in such cases are often dropped.

To further protect the emergency medical technicians, law enforcement officers, fire fighters, and ambulance staff who are so greatly committed to public safety and provide us with a necessary community service, this legislation would remove the provision that requires proof of the intent to cause harm.

Thank you for your time and consideration of AB 775. I am happy to answer any questions you may have regarding this bill.

